

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DEREK WAYNE JACKSON,
Plaintiff,

v.

JOHN GRADEL, et al.,
Defendants.

:
:
:
:
:
:
:

CIVIL ACTION NO. 24-CV-4495

ORDER

This 4th day of September, 2024, upon consideration of Derek Wayne Jackson's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 4), *pro se* Complaint (ECF No. 2), and Motion for Appointment of Counsel (ECF No. 3), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Derek Wayne Jackson, #GQ-3151, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Superintendent of SCI Mahanoy or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Jackson's inmate account; or (b) the average monthly balance in Jackson's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Jackson's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's

income credited to Jackson's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Superintendent of SCI Mahanoy.

4. The Complaint is **DEEMED** filed.

5. Jackson's Complaint is **DISMISSED WITHOUT PREJUDICE**, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), as barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). The dismissal is without prejudice to Jackson challenging his convictions and sentence in his pending *habeas* case and without prejudice to Jackson filing a new case seeking damages only in the event his underlying convictions are first reversed, vacated, or otherwise invalidated.

6. The Motion for Appointment of Counsel is **DENIED**.

7. The Clerk of Court shall **CLOSE** this case.

BY THE COURT:

/s/ Gerald Austin McHugh

GERALD A. MCHUGH, J.